

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 29989 of 2009(P)

1. V.P.PRATHEEPAN, S/O.V.A.PRABHAKARAN,

... Petitioner

Vs

1. STATE INFORMATION COMMISSION,

... Respondent

2. DIRECTOR-VIGILANCE, DIRECTORATE OF

3. PUBLIC INFORMATION OFFICER,

4. APPELLATE AUTHORITY, VACB,

For Petitioner :SMT.M.M.JASMIN

**For Respondent :SRI.M.AJAY, SC, STATE INFORMATION
COMMN**

The Hon'ble MR. Justice P.N.RAVINDRAN

Dated :23/10/2009

O R D E R

P.N.RAVINDRAN, J.

W.P(C) No.29989 of 2009-P

Dated this the 23rd day of October, 2009.

J U D G M E N T

Heard Smt.M.M.Jasmin, the learned counsel appearing for the petitioner and Sri.M.Ajay, the learned standing counsel appearing for the State Information Commission.

2. The petitioner applied to the State Public Information Officer of the Home Department for copies of a vigilance enquiry report of the year 1991 and the accompanying documents. The vigilance enquiry

report alone was given. The petitioner thereupon filed an appeal before the State Information Commission. On the said appeal, the State Information Commission passed Ext.P5 order directing the State Public Information Officer of the Home Department to give a copy of the statements available in the files free of cost. After the statement was received the petitioner submitted Ext.P7 petition before the State information Commission, wherein he requested the Commission to summon the officers who conducted the vigilance enquiry and to direct them to furnish copies of the original witness statements as taken down by them. The petitioner also prayed that penalty be imposed on the officers as contemplated under the Right to Information Act, 2005. The said request was rejected and the decision rejecting the request was communicated to the petitioner by Ext.P1 letter dated 21.8.2009. In this writ petition the petitioner challenges Ext.P1 and seeks a direction to the second respondent to furnish copies of the statements of witnesses recorded by the Enquiry Officer.

3. Sri.M.Ajay, the learned standing counsel for the State Information Commission submits that the State Information Commission has no jurisdiction to suo motu enquire and decide whether the information furnished by the State Public Information Officer is incomplete or false. He submits that if the petitioner has a case that the information furnished is incomplete, misleading or false, the remedy of the petitioner is to file a complaint under Section 18(1)(e) of the Right to

Information Act 2005. He also submits that if the petitioner files such a complaint, the State Information Commission will consider it and pass orders thereon in accordance with law.

4. In my opinion, in the absence of such a complaint, the State Information Commission cannot acting on Ext.P7 re-open the appeal heard and disposed of by it. In Ext.P7 and in the writ petition, the case of the petitioner is that the State Public Information Officer has given incomplete, misleading and false information. If that be so his remedy is to move the State Information Commission by filing a complaint under Section 18(1)(e) of the Right to Information Act, 2005. In such circumstances, I find no grounds to entertain this writ petition.

The writ petition fails and is accordingly dismissed without prejudice to the right of the petitioner to file a complaint under Section 18(1)(e) of the Right to Information Act, 2005.

Sd/-

P.N.RAVINDRAN

JUDGE

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PA TO JUDGE

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